

Appl. No. 10/702,193
 Docket No. P123C
 Amdt. dated August 11, 2008
 Reply to Office Action mailed on January 11, 2008
 Customer No. 27752

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REMARKSClaim Status

Claims 1 – 19 are pending in the present application. No additional claims fee is believed to be due. Claims 1 – 19 have been rejected under 35 U.S.C. § 103.

Rejection Under 35 U.S.C. § 103(a) Over Reinhart in view of Stitt and Nawar or DE '354

Claims 1 – 19 have been rejected under 35 U.S.C. § 103 as being obvious over Reinhart (EP 0678 247) in view of Stitt (US Patent No. 5,110,592) and Nawar (US Patent No. 6,641,847) or DE 4042354 ("DE '354"). Applicants respectfully traverse this rejection.

Reinhart is directed to "[a] pet food product is provided for use in reducing inflammatory and allergic skin responses. The pet food composition contains omega-6 and omega-3 fatty acids and the ratio of the omega-6 fatty acids to the omega-3 fatty acids is from 3:1 to 10:1." *Abstract*. Stitt is directed to "[a] method for increasing the number of live births to a female animal by feeding the female animal beginning at least one week before the expected time of birth of the female animal's offspring, an edible flaxseed composition comprising ground flaxseed." *Abstract*. Nawar is directed to "[i]solated cranberry seed oil and components thereof, in a form suitable for use as a foodstuff, dietary supplement, or pharmaceutical composition, are disclosed." *Abstract*. DE '354 is directed to "[p]elleted fodder material for general use as an animal feed and especially as dog food is made from the additive free residue from cold pressed linseed seeds." *Abstract*.

The Office Action states that Reinhart teaches a pet food product comprising omega-6 and omega-3 fatty acids in ratios of from 3:1 to 10:1, fiber, minerals, carbohydrates, 30 – 34% protein, and 20 – 23% fat, used to "treat" and maintain animals such as dogs and cats. The Office also acknowledges that Reinhart is silent as to using such a composition for enhancing or promoting reproductive performance. The Office Action also states that Stitt teaches an animal blend comprising fatty acids to increase live births and improve fertility of animals and acknowledges that Stitt does not explicitly teach the present of omega-6 fatty acid. With regards to Nawar, the Office Action states that Nawar teaches foodstuff comprising omega-6 (linoleic acid), which promotes

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reproduction, overall growth, healthy skin and cardiovascular health. With regards to DE '354, the Office Action states that DE '354 teaches animal feed comprising linoleic acid wherein the feed promotes fertility, improves performance, and glossy coat.

Reinhart, Stitt, Nawar and DE '354, either alone or in combination, all fail to teach any significance in providing a diet having a specific ratio of omega-6 and omega-3 fatty acids in a companion animal's reproductive performance, maintenance of maternal essential fatty acid status, maintenance of litter size through subsequent parities, increasing live births through subsequent parities, or decreasing still births through subsequent parities. As noted in the Office Action, Reinhart does not provide any teaching of the use of the combination of omega-3 fatty acids and omega-6 fatty acids, in the ratio as currently claimed, for the reproductive benefits noted above. Stitt discloses omega-3 fatty acids but Stitt, however, is silent with respect to omega-6 fatty acids and provides no teaching as to whether omega-6 fatty acids, in combination with omega-3 fatty acids, in the ratio as currently claimed, will have an impact of the reproductive benefits noted above. Nawar discloses omega-6 fatty acids but Nawar, however, is silent with regards to a omega-3 fatty acids, and provides no teaching as to whether omega-3 fatty acids, in combination with omega-6 fatty acids, in the ratio as currently claimed, will have an impact on the reproductive benefits noted above. DE '354 teaches that a composition comprising, among other ingredients, 17% linoleic acid and 50% linolenic acid can promote fertility, but as best understood by Applicants, DE '354 provides no teaching as to whether omega-3 fatty acids in combination with omega-6 fatty acids, in the ratio as currently claimed, will have an impact on the reproductive benefits noted above. As best understood by Applicants, the combination of Reinhart, Stitt, Nawar and DE '354 fails to teach a process for enhancing reproductive performance in a companion animal that involves feeding the animal a diet including omega-6 and omega-3 fatty acids, wherein the ratio of the omega-6 fatty acids to the omega-3 fatty acids is from about 3.5:1 to 12.5:1; or processes for maintaining maternal essential fatty acid status in a companion animal; for maintaining litter size through subsequent parities of a companion animal; for increasing live births through subsequent parities of a companion animal; or for decreasing still births through subsequent parities of a companion animal, all of which employ such a diet.

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The mere assertion that some fatty acids can be used to treat various disorders does not supply the requisite teaching to use particular fatty acids in particular combinations or ratios to improve reproductive performance in animals, to maintain maternal essential fatty acid status, to maintain litter size through subsequent parities, to increase live births through subsequent parities or to decrease still births through subsequent parities. As such, Applicants respectfully submit that one of ordinary skill in reading the combination of Reinhart, Stitt, Nawar and DE '354 would not be provided with any reasonable expectation of success in using a combination of omega-6 and omega-3 fatty acids, in the ratio as currently claimed, to enhance reproductive performance, to maintain maternal essential fatty acid status, to maintain litter size through subsequent parities, to increase live births through subsequent parities or to decrease still births through subsequent parities.

Applicants respectfully request reconsideration and withdrawal of the rejection.

Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied references. In view of the foregoing, reconsideration of this application and allowance of the pending claims are respectfully requested.

Respectfully submitted,

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Date: August 11, 2008
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